

108TH CONGRESS  
1ST SESSION

# H. R. 324

To restore the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact, a Pacific Northwest Dairy Compact, and an Intermountain Dairy Compact.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. VITTER introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To restore the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact, a Pacific Northwest Dairy Compact, and an Intermountain Dairy Compact.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Dairy Consumers and  
5       Producers Protection Act”.

1 **SEC. 2. NORTHEAST INTERSTATE DAIRY COMPACT.**

2 Section 147 of the Federal Agriculture Improvement  
3 and Reform Act of 1996 (7 U.S.C. 7256) is amended—

4 (1) in the matter preceding paragraph (1), by  
5 striking “States” and all that follows through  
6 “Vermont” and inserting “States of Connecticut,  
7 Delaware, Maine, Maryland, Massachusetts, New  
8 Hampshire, New Jersey, New York, Pennsylvania,  
9 Rhode Island, and Vermont”;

10 (2) by striking paragraphs (1), (3), and (7);

11 (3) in paragraph (2), by striking “Class III–A”  
12 and inserting “Class IV”;

13 (4) by striking paragraph (4) and inserting the  
14 following:

15 “(4) ADDITIONAL STATE.—Ohio is the only ad-  
16 ditional State that may join the Northeast Interstate  
17 Dairy Compact.”;

18 (5) in paragraph (5), by striking “the projected  
19 rate of increase” and all that follows through “Sec-  
20 retary” and inserting “the operation of the Compact  
21 price regulation during the fiscal year, as determined  
22 by the Secretary (in consultation with the Commis-  
23 sion) using notice and comment procedures provided  
24 in section 553 of title 5, United States Code”; and

1           (6) by redesignating paragraphs (2), (4), (5),  
2           and (6) as paragraphs (1), (2), (3), and (4), respec-  
3           tively.

4 **SEC. 3. SOUTHERN DAIRY COMPACT.**

5           (a) IN GENERAL.—Congress consents to the South-  
6           ern Dairy Compact entered into among the States of Ala-  
7           bama, Arkansas, Georgia, Kansas, Kentucky, Louisiana,  
8           Mississippi, Missouri, North Carolina, Oklahoma, South  
9           Carolina, Tennessee, Virginia, and West Virginia, subject  
10          to the following conditions:

11           (1) LIMITATION OF MANUFACTURING PRICE  
12           REGULATION.—The Southern Dairy Compact Com-  
13           mission may not regulate Class II, Class III, or  
14           Class IV milk used for manufacturing purposes or  
15           any other milk, other than Class I, or fluid milk, as  
16           defined by a Federal milk marketing order issued  
17           under section 8c of the Agricultural Adjustment Act  
18           (7 U.S.C. 608c), reenacted with amendments by the  
19           Agricultural Marketing Act of 1937 (referred to in  
20           this section as a “Federal milk marketing order”)  
21           unless Congress has first consented to and approved  
22           such authority by a law enacted after the date of en-  
23           actment of this joint resolution.

24           (2) ADDITIONAL STATES.—Florida, Nebraska,  
25           and Texas are the only additional States that may

1 join the Southern Dairy Compact, individually or  
2 otherwise.

3 (3) COMPENSATION OF COMMODITY CREDIT  
4 CORPORATION.—Before the end of each fiscal year  
5 in which a Compact price regulation is in effect, the  
6 Southern Dairy Compact Commission shall com-  
7 pensate the Commodity Credit Corporation for the  
8 cost of any purchases of milk and milk products by  
9 the Corporation that result from the operation of the  
10 Compact price regulation during the fiscal year, as  
11 determined by the Secretary (in consultation with  
12 the Commission) using notice and comment proce-  
13 dures provided in section 553 of title 5, United  
14 States Code.

15 (4) MILK MARKETING ORDER ADMINIS-  
16 TRATOR.—At the request of the Southern Dairy  
17 Compact Commission, the Administrator of the ap-  
18 plicable Federal milk marketing order shall provide  
19 technical assistance to the Compact Commission and  
20 be compensated for that assistance.

21 (b) COMPACT.—The Southern Dairy Compact is sub-  
22 stantially as follows:

1 **“ARTICLE I. STATEMENT OF**  
2 **PURPOSE, FINDINGS AND**  
3 **DECLARATION OF POLICY**

4 **“§ 1. Statement of purpose, findings and declaration**  
5 **of policy**

6 “The purpose of this compact is to recognize the  
7 interstate character of the southern dairy industry and the  
8 prerogative of the states under the United States Con-  
9 stitution to form an interstate commission for the south-  
10 ern region. The mission of the commission is to take such  
11 steps as are necessary to assure the continued viability of  
12 dairy farming in the south, and to assure consumers of  
13 an adequate, local supply of pure and wholesome milk.

14 “The participating states find and declare that the  
15 dairy industry is an essential agricultural activity of the  
16 south. Dairy farms, and associated suppliers, marketers,  
17 processors and retailers are an integral component of the  
18 region’s economy. Their ability to provide a stable, local  
19 supply of pure, wholesome milk is a matter of great impor-  
20 tance to the health and welfare of the region.

21 “The participating states further find that dairy  
22 farms are essential and they are an integral part of the  
23 region’s rural communities. The farms preserve land for  
24 agricultural purposes and provide needed economic stimuli  
25 for rural communities.

1        “In establishing their constitutional regulatory au-  
2 thority over the region’s fluid milk market by this com-  
3 pact, the participating states declare their purpose that  
4 this compact neither displace the federal order system nor  
5 encourage the merging of federal orders. Specific provi-  
6 sions of the compact itself set forth this basic principle.

7        “Designed as a flexible mechanism able to adjust to  
8 changes in a regulated marketplace, the compact also con-  
9 tains a contingency provision should the federal order sys-  
10 tem be discontinued. In that event, the interstate commis-  
11 sion is authorized to regulate the marketplace in replace-  
12 ment of the order system. This contingent authority does  
13 not anticipate such a change, however, and should not be  
14 so construed. It is only provided should developments in  
15 the market other than establishment of this compact re-  
16 sult in discontinuance of the order system.

17       “By entering into this compact, the participating  
18 states affirm that their ability to regulate the price which  
19 southern dairy farmers receive for their product is essen-  
20 tial to the public interest. Assurance of a fair and equi-  
21 table price for dairy farmers ensures their ability to pro-  
22 vide milk to the market and the vitality of the southern  
23 dairy industry, with all the associated benefits.

24       “Recent, dramatic price fluctuations, with a pro-  
25 nounced downward trend, threaten the viability and sta-

1 bility of the southern dairy region. Historically, individual  
 2 state regulatory action had been an effective emergency  
 3 remedy available to farmers confronting a distressed mar-  
 4 ket. The federal order system, implemented by the Agri-  
 5 cultural Marketing Agreement Act of 1937, establishes  
 6 only minimum prices paid to producers for raw milk, with-  
 7 out preempting the power of states to regulate milk prices  
 8 above the minimum levels so established.

9 “In today’s regional dairy marketplace, cooperative,  
 10 rather than individual state action is needed to more effec-  
 11 tively address the market disarray. Under our constitu-  
 12 tional system, properly authorized states acting coopera-  
 13 tively may exercise more power to regulate interstate com-  
 14 merce than they may assert individually without such au-  
 15 thority. For this reason, the participating states invoke  
 16 their authority to act in common agreement, with the con-  
 17 sent of Congress, under the compact clause of the Con-  
 18 stitution.

## 19 **“ARTICLE II. DEFINITIONS AND** 20 **RULES OF CONSTRUCTION**

### 21 **“§ 2. Definitions**

22 “For the purposes of this compact, and of any supple-  
 23 mental or concurring legislation enacted pursuant thereto,  
 24 except as may be otherwise required by the context:

1           “(1) ‘Class I milk’ means milk disposed of in  
2           fluid form or as a fluid milk product, subject to fur-  
3           ther definition in accordance with the principles ex-  
4           pressed in subdivision (b) of section three.

5           “(2) ‘Commission’ means the Southern Dairy  
6           Compact Commission established by this compact.

7           “(3) ‘Commission marketing order’ means regu-  
8           lations adopted by the commission pursuant to sec-  
9           tions nine and ten of this compact in place of a ter-  
10          minated federal marketing order or state dairy regu-  
11          lation. Such order may apply throughout the region  
12          or in any part or parts thereof as defined in the reg-  
13          ulations of the commission. Such order may estab-  
14          lish minimum prices for any or all classes of milk.

15          “(4) ‘Compact’ means this interstate compact.

16          “(5) ‘Compact over-order price’ means a min-  
17          imum price required to be paid to producers for  
18          Class I milk established by the commission in regu-  
19          lations adopted pursuant to sections nine and ten of  
20          this compact, which is above the price established in  
21          federal marketing orders or by state farm price reg-  
22          ulations in the regulated area. Such price may apply  
23          throughout the region or in any part or parts there-  
24          of as defined in the regulations of the commission.



1           “(6) ‘Milk’ means the lacteral secretion of cows  
2           and includes all skim, butterfat, or other constitu-  
3           ents obtained from separation or any other process.  
4           The term is used in its broadest sense and may be  
5           further defined by the commission for regulatory  
6           purposes.

7           “(7) ‘Partially regulated plant’ means a milk  
8           plant not located in a regulated area but having  
9           Class I distribution within such area. Commission  
10          regulations may exempt plants having such distribu-  
11          tion or receipts in amounts less than the limits de-  
12          fined therein.

13          “(8) ‘Participating state’ means a state which  
14          has become a party to this compact by the enact-  
15          ment of concurring legislation.

16          “(9) ‘Pool plant’ means any milk plant located  
17          in a regulated area.

18          “(10) ‘Region’ means the territorial limits of  
19          the states which are parties to this compact.

20          “(11) ‘Regulated area’ means any area within  
21          the region governed by and defined in regulations es-  
22          tablishing a compact over-order price or commission  
23          marketing order.

24          “(12) ‘State dairy regulation’ means any state  
25          regulation of dairy prices, and associated assess-

1       ments, whether by statute, marketing order or other-  
2       wise.

3   **“§ 3. Rules of construction**

4       “(a) This compact shall not be construed to displace  
5       existing federal milk marketing orders or state dairy regu-  
6       lation in the region but to supplement them. In the event  
7       some or all federal orders in the region are discontinued,  
8       the compact shall be construed to provide the commission  
9       the option to replace them with one or more commission  
10      marketing orders pursuant to this compact.

11      “(b) The compact shall be construed liberally in order  
12      to achieve the purposes and intent enunciated in section  
13      one. It is the intent of this compact to establish a basic  
14      structure by which the commission may achieve those pur-  
15      poses through the application, adaptation and develop-  
16      ment of the regulatory techniques historically associated  
17      with milk marketing and to afford the commission broad  
18      flexibility to devise regulatory mechanisms to achieve the  
19      purposes of this compact. In accordance with this intent,  
20      the technical terms which are associated with market  
21      order regulation and which have acquired commonly un-  
22      derstood general meanings are not defined herein but the  
23      commission may further define the terms used in this com-  
24      pact and develop additional concepts and define additional  
25      terms as it may find appropriate to achieve its purposes.

1       **“ARTICLE III. COMMISSION**  
2                   **ESTABLISHED**

3   **“§ 4. Commission established**

4       “There is hereby created a commission to administer  
5 the compact, composed of delegations from each state in  
6 the region. The commission shall be known as the South-  
7 ern Dairy Compact Commission. A delegation shall include  
8 not less than three nor more than five persons. Each dele-  
9 gation shall include at least one dairy farmer who is en-  
10 gaged in the production of milk at the time of appointment  
11 or reappointment, and one consumer representative. Dele-  
12 gation members shall be residents and voters of, and sub-  
13 ject to such confirmation process as is provided for in the  
14 appointing state. Delegation members shall serve no more  
15 than three consecutive terms with no single term of more  
16 than four years, and be subject to removal for cause. In  
17 all other respects, delegation members shall serve in ac-  
18 cordance with the laws of the state represented. The com-  
19 pensation, if any, of the members of a state delegation  
20 shall be determined and paid by each state, but their ex-  
21 penses shall be paid by the commission.

22   **“§ 5. Voting requirements**

23       “All actions taken by the commission, except for the  
24 establishment or termination of an over-order price or  
25 commission marketing order, and the adoption, amend-

1 ment or rescission of the commission's by-laws, shall be  
2 by majority vote of the delegations present. Each state del-  
3 egation shall be entitled to one vote in the conduct of the  
4 commission's affairs. Establishment or termination of an  
5 over-order price or commission marketing order shall re-  
6 quire at least a two-thirds vote of the delegations present.  
7 The establishment of a regulated area which covers all or  
8 part of a participating state shall require also the affirma-  
9 tive vote of that state's delegation. A majority of the dele-  
10 gations from the participating states shall constitute a  
11 quorum for the conduct of the commission's business.

12 **“§ 6. Administration and management**

13       “(a) The commission shall elect annually from among  
14 the members of the participating state delegations a chair-  
15 person, a vice-chairperson, and a treasurer. The commis-  
16 sion shall appoint an executive director and fix his or her  
17 duties and compensation. The executive director shall  
18 serve at the pleasure of the commission, and together with  
19 the treasurer, shall be bonded in an amount determined  
20 by the commission. The commission may establish through  
21 its by-laws an executive committee composed of one mem-  
22 ber elected by each delegation.

23       “(b) The commission shall adopt by-laws for the con-  
24 duct of its business by a two-thirds vote, and shall have  
25 the power by the same vote to amend and rescind these

1 by-laws. The commission shall publish its by-laws in con-  
2 venient form with the appropriate agency or officer in each  
3 of the participating states. The by-laws shall provide for  
4 appropriate notice to the delegations of all commission  
5 meetings and hearings and of the business to be trans-  
6 acted at such meetings or hearings. Notice also shall be  
7 given to other agencies or officers of participating states  
8 as provided by the laws of those states.

9       “(c) The commission shall file an annual report with  
10 the Secretary of Agriculture of the United States, and  
11 with each of the participating states by submitting copies  
12 to the governor, both houses of the legislature, and the  
13 head of the state department having responsibilities for  
14 agriculture.

15       “(d) In addition to the powers and duties elsewhere  
16 prescribed in this compact, the commission shall have the  
17 power:

18               “(1) To sue and be sued in any state or federal  
19 court;

20               “(2) To have a seal and alter the same at pleas-  
21 ure;

22               “(3) To acquire, hold, and dispose of real and  
23 personal property by gift, purchase, lease, license, or  
24 other similar manner, for its corporate purposes;

1           “(4) To borrow money and issue notes, to pro-  
2       vide for the rights of the holders thereof and to  
3       pledge the revenue of the commission as security  
4       therefor, subject to the provisions of section eighteen  
5       of this compact;

6           “(5) To appoint such officers, agents, and em-  
7       ployees as it may deem necessary, prescribe their  
8       powers, duties and qualifications; and

9           “(6) To create and abolish such offices, employ-  
10      ments and positions as it deems necessary for the  
11      purposes of the compact and provide for the re-  
12      moval, term, tenure, compensation, fringe benefits,  
13      pension, and retirement rights of its officers and em-  
14      ployees. The commission may also retain personal  
15      services on a contract basis.

16   **“§ 7. Rulemaking power**

17        “In addition to the power to promulgate a compact  
18   over-order price or commission marketing orders as pro-  
19   vided by this compact, the commission is further empow-  
20   ered to make and enforce such additional rules and regula-  
21   tions as it deems necessary to implement any provisions  
22   of this compact, or to effectuate in any other respect the  
23   purposes of this compact.

1     **“ARTICLE IV. POWERS OF THE**  
2                     **COMMISSION**

3     **“§ 8. Powers to promote regulatory uniformity, sim-**  
4                     **plicity, and interstate cooperation**

5             “The commission is hereby empowered to:

6                 “(1) Investigate or provide for investigations or  
7             research projects designed to review the existing  
8             laws and regulations of the participating states, to  
9             consider their administration and costs, to measure  
10            their impact on the production and marketing of  
11            milk and their effects on the shipment of milk and  
12            milk products within the region.

13               “(2) Study and recommend to the participating  
14            states joint or cooperative programs for the adminis-  
15            tration of the dairy marketing laws and regulations  
16            and to prepare estimates of cost savings and benefits  
17            of such programs.

18               “(3) Encourage the harmonious relationships  
19            between the various elements in the industry for the  
20            solution of their material problems. Conduct  
21            symposia or conferences designed to improve indus-  
22            try relations, or a better understanding of problems.

23               “(4) Prepare and release periodic reports on ac-  
24            tivities and results of the commission’s efforts to the  
25            participating states.

1           “(5) Review the existing marketing system for  
2           milk and milk products and recommend changes in  
3           the existing structure for assembly and distribution  
4           of milk which may assist, improve or promote more  
5           efficient assembly and distribution of milk.

6           “(6) Investigate costs and charges for pro-  
7           ducing, hauling, handling, processing, distributing,  
8           selling and for all other services performed with re-  
9           spect to milk.

10           “(7) Examine current economic forces affecting  
11           producers, probable trends in production and con-  
12           sumption, the level of dairy farm prices in relation  
13           to costs, the financial conditions of dairy farmers,  
14           and the need for an emergency order to relieve crit-  
15           ical conditions on dairy farms.

16   **“§ 9. Equitable farm prices**

17           “(a) The powers granted in this section and section  
18           ten shall apply only to the establishment of a compact  
19           over-order price, so long as federal milk marketing orders  
20           remain in effect in the region. In the event that any or  
21           all such orders are terminated, this article shall authorize  
22           the commission to establish one or more commission mar-  
23           keting orders, as herein provided, in the region or parts  
24           thereof as defined in the order.



1       “(b) A compact over-order price established pursuant  
2 to this section shall apply only to Class I milk. Such com-  
3 pact over-order price shall not exceed one dollar and fifty  
4 cents per gallon at Atlanta, Ga., however, this compact  
5 over-order price shall be adjusted upward or downward at  
6 other locations in the region to reflect differences in min-  
7 imum federal order prices. Beginning in nineteen hundred  
8 ninety, and using that year as a base, the foregoing one  
9 dollar fifty cents per gallon maximum shall be adjusted  
10 annually by the rate of change in the Consumer Price  
11 Index as reported by the Bureau of Labor Statistics of  
12 the United States Department of Labor. For purposes of  
13 the pooling and equalization of an over-order price, the  
14 value of milk used in other use classifications shall be cal-  
15 culated at the appropriate class price established pursuant  
16 to the applicable federal order or state dairy regulation  
17 and the value of unregulated milk shall be calculated in  
18 relation to the nearest prevailing class price in accordance  
19 with and subject to such adjustments as the commission  
20 may prescribe in regulations.

21       “(c) A commission marketing order shall apply to all  
22 classes and uses of milk.

23       “(d) The commission is hereby empowered to estab-  
24 lish a compact over-order price for milk to be paid by pool  
25 plants and partially regulated plants. The commission is

1 also empowered to establish a compact over-order price to  
2 be paid by all other handlers receiving milk from pro-  
3 ducers located in a regulated area. This price shall be es-  
4 tablished either as a compact over-order price or by one  
5 or more commission marketing orders. Whenever such a  
6 price has been established by either type of regulation, the  
7 legal obligation to pay such price shall be determined sole-  
8 ly by the terms and purpose of the regulation without re-  
9 gard to the situs of the transfer of title, possession or any  
10 other factors not related to the purposes of the regulation  
11 and this compact. Producer-handlers as defined in an ap-  
12 plicable federal market order shall not be subject to a com-  
13 pact over-order price. The commission shall provide for  
14 similar treatment of producer-handlers under commission  
15 marketing orders.

16       “(e) In determining the price, the commission shall  
17 consider the balance between production and consumption  
18 of milk and milk products in the regulated area, the costs  
19 of production including, but not limited to the price of  
20 feed, the cost of labor including the reasonable value of  
21 the producer’s own labor and management, machinery ex-  
22 pense, and interest expense, the prevailing price for milk  
23 outside the regulated area, the purchasing power of the  
24 public and the price necessary to yield a reasonable return  
25 to the producer and distributor.

1       “(f) When establishing a compact over-order price,  
2 the commission shall take such other action as is necessary  
3 and feasible to help ensure that the over-order price does  
4 not cause or compensate producers so as to generate local  
5 production of milk in excess of those quantities necessary  
6 to assure consumers of an adequate supply for fluid pur-  
7 poses.

8       “(g) The commission shall whenever possible enter  
9 into agreements with state or federal agencies for ex-  
10 change of information or services for the purpose of reduc-  
11 ing regulatory burden and cost of administering the com-  
12 pact. The commission may reimburse other agencies for  
13 the reasonable cost of providing these services.

14   **“§ 10. Optional provisions for pricing order**

15       “Regulations establishing a compact over-order price  
16 or a commission marketing order may contain, but shall  
17 not be limited to any of the following:

18               “(1) Provisions classifying milk in accordance  
19 with the form in which or purpose for which it is  
20 used, or creating a flat pricing program.

21               “(2) With respect to a commission marketing  
22 order only, provisions establishing or providing a  
23 method for establishing separate minimum prices for  
24 each use classification prescribed by the commission,

1 or a single minimum price for milk purchased from  
2 producers or associations of producers.

3 “(3) With respect to an over-order minimum  
4 price, provisions establishing or providing a method  
5 for establishing such minimum price for Class I  
6 milk.

7 “(4) Provisions for establishing either an over-  
8 order price or a commission marketing order may  
9 make use of any reasonable method for establishing  
10 such price or prices including flat pricing and for-  
11 mula pricing. Provision may also be made for loca-  
12 tion adjustments, zone differentials and for competi-  
13 tive credits with respect to regulated handlers who  
14 market outside the regulated area.

15 “(5) Provisions for the payment to all pro-  
16 ducers and associations of producers delivering milk  
17 to all handlers of uniform prices for all milk so deliv-  
18 ered, irrespective of the uses made of such milk by  
19 the individual handler to whom it is delivered, or for  
20 the payment of producers delivering milk to the  
21 same handler of uniform prices for all milk delivered  
22 by them.

23 “(A) With respect to regulations estab-  
24 lishing a compact over-order price, the commis-  
25 sion may establish one equalization pool within

1           the regulated area for the sole purpose of equal-  
2           izing returns to producers throughout the regu-  
3           lated area.

4           “(B) With respect to any commission mar-  
5           keting order, as defined in section two, subdivi-  
6           sion three, which replaces one or more termi-  
7           nated federal orders or state dairy regulations,  
8           the marketing area of now separate state or  
9           federal orders shall not be merged without the  
10          affirmative consent of each state, voting  
11          through its delegation, which is partly or wholly  
12          included within any such new marketing area.

13          “(6) Provisions requiring persons who bring  
14          Class I milk into the regulated area to make com-  
15          pensatory payments with respect to all such milk to  
16          the extent necessary to equalize the cost of milk pur-  
17          chased by handlers subject to a compact over-order  
18          price or commission marketing order. No such provi-  
19          sions shall discriminate against milk producers out-  
20          side the regulated area. The provisions for compen-  
21          satory payments may require payment of the dif-  
22          ference between the Class I price required to be paid  
23          for such milk in the state of production by a federal  
24          milk marketing order or state dairy regulation and

1 the Class I price established by the compact over-  
2 order price or commission marketing order.

3 “(7) Provisions specially governing the pricing  
4 and pooling of milk handled by partially regulated  
5 plants.

6 “(8) Provisions requiring that the account of  
7 any person regulated under the compact over-order  
8 price shall be adjusted for any payments made to or  
9 received by such persons with respect to a producer  
10 settlement fund of any federal or state milk mar-  
11 keting order or other state dairy regulation within  
12 the regulated area.

13 “(9) Provision requiring the payment by han-  
14 dlers of an assessment to cover the costs of the ad-  
15 ministration and enforcement of such order pursu-  
16 ant to Article VII, Section 18(a).

17 “(10) Provisions for reimbursement to partici-  
18 pants of the Women, Infants and Children Special  
19 Supplemental Food Program of the United States  
20 Child Nutrition Act of 1966.

21 “(11) Other provisions and requirements as the  
22 commission may find are necessary or appropriate to  
23 effectuate the purposes of this compact and to pro-  
24 vide for the payment of fair and equitable minimum  
25 prices to producers.

## **“ARTICLE V. RULEMAKING PROCEDURE**

### **“§ 11. Rulemaking procedure**

“Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

1   **“§ 12. Findings and referendum**

2           “(a) In addition to the concise general statement of  
3 basis and purpose required by section 4(b) of the Federal  
4 Administrative Procedure Act, as amended (5 U.S.C.  
5 § 553(c)), the commission shall make findings of fact with  
6 respect to:

7           “(1) Whether the public interest will be served  
8 by the establishment of minimum milk prices to  
9 dairy farmers under Article IV.

10          “(2) What level of prices will assure that pro-  
11 ducers receive a price sufficient to cover their costs  
12 of production and will elicit an adequate supply of  
13 milk for the inhabitants of the regulated area and  
14 for manufacturing purposes.

15          “(3) Whether the major provisions of the order,  
16 other than those fixing minimum milk prices, are in  
17 the public interest and are reasonably designed to  
18 achieve the purposes of the order.

19          “(4) Whether the terms of the proposed re-  
20 gional order or amendment are approved by pro-  
21 ducers as provided in section thirteen.

22   **“§ 13. Producer referendum**

23          “(a) For the purpose of ascertaining whether the  
24 issuance or amendment of regulations establishing a com-  
25 pact over-order price or a commission marketing order,  
26 including any provision with respect to milk supply under



1 subsection 9(f), is approved by producers, the commission  
2 shall conduct a referendum among producers. The ref-  
3 erendum shall be held in a timely manner, as determined  
4 by regulation of the commission. The terms and conditions  
5 of the proposed order or amendment shall be described  
6 by the commission in the ballot used in the conduct of  
7 the referendum, but the nature, content, or extent of such  
8 description shall not be a basis for attacking the legality  
9 of the order or any action relating thereto.

10       “(b) An order or amendment shall be deemed ap-  
11 proved by producers if the commission determines that it  
12 is approved by at least two-thirds of the voting producers  
13 who, during a representative period determined by the  
14 commission, have been engaged in the production of milk  
15 the price of which would be regulated under the proposed  
16 order or amendment.

17       “(c) For purposes of any referendum, the commission  
18 shall consider the approval or disapproval by any coopera-  
19 tive association of producers, qualified under the provi-  
20 sions of the Act of Congress of February 18, 1922, as  
21 amended, known as the Capper–Volstead Act, bona fide  
22 engaged in marketing milk, or in rendering services for  
23 or advancing the interests of producers of such com-  
24 modity, as the approval or disapproval of the producers  
25 who are members or stockholders in, or under contract

1 with, such cooperative association of producers, except as  
2 provided in subdivision (1) hereof and subject to the provi-  
3 sions of subdivision (2) through (5) hereof.

4 “(1) No cooperative which has been formed to  
5 act as a common marketing agency for both coopera-  
6 tives and individual producers shall be qualified to  
7 block vote for either.

8 “(2) Any cooperative which is qualified to block  
9 vote shall, before submitting its approval or dis-  
10 approval in any referendum, give prior written notice  
11 to each of its members as to whether and how it in-  
12 tends to cast its vote. The notice shall be given in  
13 a timely manner as established, and in the form pre-  
14 scribed, by the commission.

15 “(3) Any producer may obtain a ballot from the  
16 commission in order to register approval or dis-  
17 approval of the proposed order.

18 “(4) A producer who is a member of a coopera-  
19 tive which has provided notice of its intent to ap-  
20 prove or not to approve a proposed order, and who  
21 obtains a ballot and with such ballot expresses his  
22 approval or disapproval of the proposed order, shall  
23 notify the commission as to the name of the coopera-  
24 tive of which he or she is a member, and the com-  
25 mission shall remove such producer’s name from the

1 list certified by such cooperative with its corporate  
2 vote.

3 “(5) In order to insure that all milk producers  
4 are informed regarding the proposed order, the com-  
5 mission shall notify all milk producers that an order  
6 is being considered and that each producer may reg-  
7 ister his approval or disapproval with the commis-  
8 sion either directly or through his or her cooperative.

9 **“§ 14. Termination of over-order price or marketing**  
10 **order**

11 “(a) The commission shall terminate any regulations  
12 establishing an over-order price or commission marketing  
13 order issued under this article whenever it finds that such  
14 order or price obstructs or does not tend to effectuate the  
15 declared policy of this compact.

16 “(b) The commission shall terminate any regulations  
17 establishing an over-order price or a commission mar-  
18 keting order issued under this article whenever it finds  
19 that such termination is favored by a majority of the pro-  
20 ducers who, during a representative period determined by  
21 the commission, have been engaged in the production of  
22 milk the price of which is regulated by such order; but  
23 such termination shall be effective only if announced on  
24 or before such date as may be specified in such marketing  
25 agreement or order.

1       “(c) The termination or suspension of any order or  
 2 provision thereof, shall not be considered an order within  
 3 the meaning of this article and shall require no hearing,  
 4 but shall comply with the requirements for informal rule-  
 5 making prescribed by section four of the Federal Adminis-  
 6 trative Procedure Act, as amended (5 U.S.C. § 553).

## 7       **“ARTICLE VI. ENFORCEMENT**

### 8       **“§ 15. Records; reports; access to premises**

9       “(a) The commission may by rule and regulation pre-  
 10 scribe record keeping and reporting requirements for all  
 11 regulated persons. For purposes of the administration and  
 12 enforcement of this compact, the commission is authorized  
 13 to examine the books and records of any regulated person  
 14 relating to his or her milk business and for that purpose,  
 15 the commission’s properly designated officers, employees,  
 16 or agents shall have full access during normal business  
 17 hours to the premises and records of all regulated persons.

18       “(b) Information furnished to or acquired by the  
 19 commission officers, employees, or its agents pursuant to  
 20 this section shall be confidential and not subject to disclo-  
 21 sure except to the extent that the commission deems dis-  
 22 closure to be necessary in any administrative or judicial  
 23 proceeding involving the administration or enforcement of  
 24 this compact, an over-order price, a compact marketing  
 25 order, or other regulations of the commission. The com-

1 mission may promulgate regulations further defining the  
2 confidentiality of information pursuant to this section.  
3 Nothing in this section shall be deemed to prohibit (i) the  
4 issuance of general statements based upon the reports of  
5 a number of handlers, which do not identify the informa-  
6 tion furnished by any person, or (ii) the publication by  
7 direction of the commission of the name of any person vio-  
8 lating any regulation of the commission, together with a  
9 statement of the particular provisions violated by such  
10 person.

11 “(c) No officer, employee, or agent of the commission  
12 shall intentionally disclose information, by inference or  
13 otherwise, which is made confidential pursuant to this sec-  
14 tion. Any person violating the provisions of this section  
15 shall, upon conviction, be subject to a fine of not more  
16 than one thousand dollars or to imprisonment for not  
17 more than one year, or to both, and shall be removed from  
18 office. The commission shall refer any allegation of a viola-  
19 tion of this section to the appropriate state enforcement  
20 authority or United States Attorney.

21 **“§ 16. Subpoena; hearings and judicial review**

22 “(a) The commission is hereby authorized and em-  
23 powered by its members and its properly designated offi-  
24 cers to administer oaths and issue subpoenas throughout  
25 all signatory states to compel the attendance of witnesses

1 and the giving of testimony and the production of other  
2 evidence.

3       “(b) Any handler subject to an order may file a writ-  
4 ten petition with the commission stating that any such  
5 order or any provision of any such order or any obligation  
6 imposed in connection therewith is not in accordance with  
7 law and praying for a modification thereof or to be ex-  
8 empted therefrom. He shall thereupon be given an oppor-  
9 tunity for a hearing upon such petition, in accordance with  
10 regulations made by the commission. After such hearing,  
11 the commission shall make a ruling upon the prayer of  
12 such petition which shall be final, if in accordance with  
13 law.

14       “(c) The district courts of the United States in any  
15 district in which such handler is an inhabitant, or has his  
16 principal place of business, are hereby vested with jurisdic-  
17 tion to review such ruling, provided a complaint for that  
18 purpose is filed within thirty days from the date of the  
19 entry of such ruling. Service of process in such pro-  
20 ceedings may be had upon the commission by delivering  
21 to it a copy of the complaint. If the court determines that  
22 such ruling is not in accordance with law, it shall remand  
23 such proceedings to the commission with directions either  
24 (1) to make such ruling as the court shall determine to  
25 be in accordance with law, or (2) to take such further pro-

1 ceedings as, in its opinion, the law requires. The pendency  
2 of proceedings instituted pursuant to this subdivision shall  
3 not impede, hinder, or delay the commission from obtain-  
4 ing relief pursuant to section seventeen. Any proceedings  
5 brought pursuant to section seventeen, except where  
6 brought by way of counterclaim in proceedings instituted  
7 pursuant to this section, shall abate whenever a final de-  
8 cree has been rendered in proceedings between the same  
9 parties, and covering the same subject matter, instituted  
10 pursuant to this section.

11 **“§ 17. Enforcement with respect to handlers**

12 “(a) Any violation by a handler of the provisions of  
13 regulations establishing an over-order price or a commis-  
14 sion marketing order, or other regulations adopted pursu-  
15 ant to this compact shall:

16 “(1) Constitute a violation of the laws of each  
17 of the signatory states. Such violation shall render  
18 the violator subject to a civil penalty in an amount  
19 as may be prescribed by the laws of each of the par-  
20 ticipating states, recoverable in any state or federal  
21 court of competent jurisdiction. Each day such viola-  
22 tion continues shall constitute a separate violation.

23 “(2) Constitute grounds for the revocation of li-  
24 cense or permit to engage in the milk business under  
25 the applicable laws of the participating states.

1       “(b) With respect to handlers, the commission shall  
 2 enforce the provisions of this compact, regulations estab-  
 3 lishing an over-order price, a commission marketing order  
 4 or other regulations adopted hereunder by:

5           “(1) Commencing an action for legal or equi-  
 6 table relief brought in the name of the commission  
 7 of any state or federal court of competent jurisdic-  
 8 tion; or

9           “(2) Referral to the state agency for enforce-  
 10 ment by judicial or administrative remedy with the  
 11 agreement of the appropriate state agency of a par-  
 12 ticipating state.

13       “(c) With respect to handlers, the commission may  
 14 bring an action for injunction to enforce the provisions  
 15 of this compact or the order or regulations adopted there-  
 16 under without being compelled to allege or prove that an  
 17 adequate remedy of law does not exist.

## 18           **“ARTICLE VII. FINANCE**

### 19       **“§ 18. Finance of start-up and regular costs**

20       “(a) To provide for its start-up costs, the commission  
 21 may borrow money pursuant to its general power under  
 22 section six, subdivision (d), paragraph four. In order to  
 23 finance the costs of administration and enforcement of  
 24 this compact, including payback of start-up costs, the  
 25 commission is hereby empowered to collect an assessment



1 from each handler who purchases milk from producers  
2 within the region. If imposed, this assessment shall be col-  
3 lected on a monthly basis for up to one year from the date  
4 the commission convenes, in an amount not to exceed  
5 \$.015 per hundredweight of milk purchased from pro-  
6 ducers during the period of the assessment. The initial as-  
7 sessment may apply to the projected purchases of handlers  
8 for the two-month period following the date the commis-  
9 sion convenes. In addition, if regulations establishing an  
10 over-order price or a compact marketing order are adopt-  
11 ed, they may include an assessment for the specific pur-  
12 pose of their administration. These regulations shall pro-  
13 vide for establishment of a reserve for the commission's  
14 ongoing operating expenses.

15       “(b) The commission shall not pledge the credit of  
16 any participating state or of the United States. Notes  
17 issued by the commission and all other financial obliga-  
18 tions incurred by it, shall be its sole responsibility and no  
19 participating state or the United States shall be liable  
20 therefor.

21 **“§ 19. Audit and accounts**

22       “(a) The commission shall keep accurate accounts of  
23 all receipts and disbursements, which shall be subject to  
24 the audit and accounting procedures established under its  
25 rules. In addition, all receipts and disbursements of funds

1 handled by the commission shall be audited yearly by a  
 2 qualified public accountant and the report of the audit  
 3 shall be included in and become part of the annual report  
 4 of the commission.

5 “(b) The accounts of the commission shall be open  
 6 at any reasonable time for inspection by duly constituted  
 7 officers of the participating states and by any persons au-  
 8 thorized by the commission.

9 “(c) Nothing contained in this article shall be con-  
 10 strued to prevent commission compliance with laws relat-  
 11 ing to audit or inspection of accounts by or on behalf of  
 12 any participating state or of the United States.

## 13 **“ARTICLE VIII. ENTRY INTO** 14 **FORCE; ADDITIONAL MEM-** 15 **BERS AND WITHDRAWAL**

### 16 **“§ 20. Entry into force; additional members**

17 “The compact shall enter into force effective when  
 18 enacted into law by any three states of the group of states  
 19 composed of Alabama, Arkansas, Florida, Georgia, Ken-  
 20 tucky, Louisiana, Maryland, Mississippi, North Carolina,  
 21 Oklahoma, South Carolina, Tennessee, Texas, Virginia  
 22 and West Virginia and when the consent of Congress has  
 23 been obtained.

1 **“§ 21. Withdrawal from compact**

2 “Any participating state may withdraw from this  
3 compact by enacting a statute repealing the same, but no  
4 such withdrawal shall take effect until one year after no-  
5 tice in writing of the withdrawal is given to the commis-  
6 sion and the governors of all other participating states.  
7 No withdrawal shall affect any liability already incurred  
8 by or chargeable to a participating state prior to the time  
9 of such withdrawal.

10 **“§ 22. Severability**

11 “If any part or provision of this compact is adjudged  
12 invalid by any court, such judgment shall be confined in  
13 its operation to the part or provision directly involved in  
14 the controversy in which such judgment shall have been  
15 rendered and shall not affect or impair the validity of the  
16 remainder of this compact. In the event Congress consents  
17 to this compact subject to conditions, said conditions shall  
18 not impair the validity of this compact when said condi-  
19 tions are accepted by three or more compacting states. A  
20 compacting state may accept the conditions of Congress  
21 by implementation of this compact.”.

22 **SEC. 4. PACIFIC NORTHWEST DAIRY COMPACT.**

23 Congress consents to a Pacific Northwest Dairy Com-  
24 pact proposed for the States of California, Oregon, and  
25 Washington, subject to the following conditions:

1           (1) TEXT.—The text of the Pacific Northwest  
2 Dairy Compact shall be identical to the text of the  
3 Southern Dairy Compact, except as follows:

4                   (A) References to “south”, “southern”,  
5 and “Southern” shall be changed to “Pacific  
6 Northwest”.

7                   (B) In section 9(b), the reference to “At-  
8 lanta, Georgia” shall be changed to “Seattle,  
9 Washington”.

10                  (C) In section 20, the reference to “any  
11 three” and all that follows shall be changed to  
12 “California, Oregon, and Washington.”.

13           (2) LIMITATION OF MANUFACTURING PRICE  
14 REGULATION.—The Dairy Compact Commission es-  
15 tablished to administer the Pacific Northwest Dairy  
16 Compact (referred to in this section as the “Com-  
17 mission”) may not regulate Class II, Class III, or  
18 Class IV milk used for manufacturing purposes or  
19 any other milk, other than Class I, or fluid milk, as  
20 defined by a Federal milk marketing order issued  
21 under section 8c of the Agricultural Adjustment Act  
22 (7 U.S.C. 608c), reenacted with amendments by the  
23 Agricultural Marketing Act of 1937 (referred to in  
24 this section as a “Federal milk marketing order”).

1           (3) EFFECTIVE DATE.—Congressional consent  
2           under this section takes effect on the date (not later  
3           than 3 year after the date of enactment of this Act)  
4           on which the Pacific Northwest Dairy Compact is  
5           entered into by the second of the 3 States specified  
6           in the matter preceding paragraph (1).

7           (4) COMPENSATION OF COMMODITY CREDIT  
8           CORPORATION.—Before the end of each fiscal year  
9           in which a price regulation is in effect under the Pa-  
10          cific Northwest Dairy Compact, the Commission  
11          shall compensate the Commodity Credit Corporation  
12          for the cost of any purchases of milk and milk prod-  
13          ucts by the Corporation that result from the oper-  
14          ation of the Compact price regulation during the fis-  
15          cal year, as determined by the Secretary (in con-  
16          sultation with the Commission) using notice and  
17          comment procedures provided in section 553 of title  
18          5, United States Code.

19          (5) MILK MARKETING ORDER ADMINIS-  
20          TRATOR.—At the request of the Commission, the  
21          Administrator of the applicable Federal milk mar-  
22          keting order shall provide technical assistance to the  
23          Commission and be compensated for that assistance.

1 **SEC. 5. INTERMOUNTAIN DAIRY COMPACT.**

2 Congress consents to an Intermountain Dairy Com-  
3 pact proposed for the States of Colorado, Nevada, and  
4 Utah, subject to the following conditions:

5 (1) TEXT.—The text of the Intermountain  
6 Dairy Compact shall be identical to the text of the  
7 Southern Dairy Compact, except as follows:

8 (A) In section 1, the references to “south-  
9 ern” and “south” shall be changed to “Inter-  
10 mountain” and “Intermountain region”, respec-  
11 tively.

12 (B) References to “Southern” shall be  
13 changed to “Intermountain ”.

14 (C) In section 9(b), the reference to “At-  
15 lanta, Georgia” shall be changed to “Salt Lake  
16 City, Utah”.

17 (D) In section 20, the reference to “any  
18 three” and all that follows shall be changed to  
19 “Colorado, Nevada, and Utah.”.

20 (2) LIMITATION OF MANUFACTURING PRICE  
21 REGULATION.—The Dairy Compact Commission es-  
22 tablished to administer the Intermountain Dairy  
23 Compact (referred to in this section as the “Com-  
24 mission”) may not regulate Class II, Class III, or  
25 Class IV milk used for manufacturing purposes or  
26 any other milk, other than Class I, or fluid milk, as

1 defined by a Federal milk marketing order issued  
2 under section 8c of the Agricultural Adjustment Act  
3 (7 U.S.C. 608c), reenacted with amendments by the  
4 Agricultural Marketing Act of 1937 (referred to in  
5 this section as a “Federal milk marketing order”).

6 (3) EFFECTIVE DATE.—Congressional consent  
7 under this section takes effect on the date (not later  
8 than 3 year after the date of enactment of this Act)  
9 on which the Intermountain Dairy Compact is en-  
10 tered into by the second of the 3 States specified in  
11 the matter preceding paragraph (1).

12 (4) COMPENSATION OF COMMODITY CREDIT  
13 CORPORATION.—Before the end of each fiscal year  
14 in which a price regulation is in effect under the  
15 Intermountain Dairy Compact, the Commission shall  
16 compensate the Commodity Credit Corporation for  
17 the cost of any purchases of milk and milk products  
18 by the Corporation that result from the operation of  
19 the Compact price regulation during the fiscal year,  
20 as determined by the Secretary (in consultation with  
21 the Commission) using notice and comment proce-  
22 dures provided in section 553 of title 5, United  
23 States Code.

24 (5) MILK MARKETING ORDER ADMINIS-  
25 TRATOR.—At the request of the Commission, the

1 Administrator of the applicable Federal milk mar-  
2 keting order shall provide technical assistance to the  
3 Commission and be compensated for that assistance.

○